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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,657	10/19/2006	Bernard Kraeutler	GER-0814	8173

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EXAMINER

RAMSEY, JEREMY C

ART UNIT	PAPER NUMBER
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3634

NOTIFICATION DATE	DELIVERY MODE
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02/24/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/576,657	Applicant(s) KRAEUTLER, BERNARD	
	Examiner JEREMY C. RAMSEY	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7,10,11,13-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,10,11,13-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

The following office action is in response to the amendment filed on 11/17/2008. Claims 1-3, 5, 7, 10, 11, 13-15 and 17-20 are pending in the application. Claims 4, 6, 8, 9, 12 and 16 have been canceled.

Drawings

The previous objection to the drawings has been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 11, 15, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944 in view of Applicant Admitted Prior Art and Kraeutler 6,672,360.

3. In re claim 1, with reference to Figure 13, Bernard '944 discloses a door comprising:

- A transverse box (3).
- A curtain (7) movable between a closed and open position consisting of two parallel screens (71)(72), at least one lifting strap (5') connecting the bottom part of the curtain to a shaft (4).
- At least one transverse stiffening means (11)(11')(12) fitted to each of the screens (71)(72).

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- At least one pair of stiffening bars (11)(11') engaged in two mutually opposite sheaths (73)(74) are connected by at least one spacer (15) having an opening for the lifting strap (5') to pass through.
- At least two pairs of stiffening bars (11)(11') with spacers (15) alternate with at least one pair of stiffening bars (12) without spacers in such a way that alternate folds form when the curtain is raised.
- Each screen comprises at least two transverse panels of flexible material connected by a sheath (73)(74).

Bernard '944 fails to disclose:

- Two jambs wherein the side edges of each screen lie against a jamb.
- The ends of the stiffening bars are fitted with guide components and guide endpieces which have a flat part oriented in the plane.

4. Applicant Admitted Prior Art discloses:

- A door comprising a transverse box joining two jambs. (page 2, lines 32-37) Wherein the side edges of the screen lie against a jamb. (AAPA states that the curtain closes the opening formed by the jams, therefore one can conclude that in order to close the opening, the side edges of the screen must lie against the jams)

5. With reference to Figure 12, Kraeutler '360 discloses:

- The ends of the stiffening bars (30) are fitted with guide components and guide endpieces (46) which have a flat part oriented in the plane of the screen.

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6. Therefore it would have been obvious to one having ordinary skill in the art, to include a pair of jambs joining the transverse box as taught by Applicant Admitted Prior Art, since this is an old and well known feature in the art.

7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include guide components and guide endpieces with a roller between the tracks as taught by Kraeutler '360 in order to guide bar and edge of the curtain accurately (column 5, lines 52-63)

8. In re claims 2,3, 5, 11, 15 and 20, with reference to Figures 14 and 15, Bernard '944 discloses:

- A sheath (73)(74)(75)(76) formed in each screen (71)(72) in which a stiffening means (11)(11')(12) is engaged.
- The sheaths are opposite each other.
- The spacer (15) has an opening for the lifting strap (5') to pass through.
- Wherein a flexible bar (8) is held in the connecting fold (10) of the two screens and a lower pair of bars (11)(11') with spaces and a succeeding pair of bars (12) without spaces are at distances such that the bar projects beyond the folds formed. (Figure 14)
- The curtain (7) is made from a single component of flexible material folded on itself to form two screens (71)(72).
- A cable (5') is engaged in at least one sheath (73)(74) whose ends are guided relative to the jambs.

9. In re claims 17-19 Kraeutler '360 discloses:

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- The ends of the stiffening bars (30) are fitted with guide components and guide endpieces (46) which have a flat part oriented in the plane of the screen.
- A roller (58) engageable between two tracks (4).
- Filler endpieces (54) engaged on the end of the bar (30).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944 and Applicant Admitted Prior Art and Kraeutler 6,672,360 as applied to claims 1-3 and 5 and further in view of Kraeutler 5,207,256.

11. In re claim 7, the door of Bernard/Admitted Prior Art has been discussed above but fails to disclose:

- Wherein the bottom part of the curtain contains a flexible component consisting of a flexible sleeve enclosing a flexible material.

12. With reference to Figure 4, Kraeutler '256 discloses:

- Wherein the bottom part of the curtain contains a flexible component consisting of a flexible sleeve (unnumbered) enclosing a flexible material (50).

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a flexible sleeve enclosing a flexible material as taught by Kraeutler '256 in order to provide stiffness to the curtain but prevent injury or damage to people if they curtain is lowered too quickly and falls on them. (column 1, lines 28-37)

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14. Claims 9, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944 and Applicant Admitted Prior Art as applied to claim 4 and further in view of Kraeutler 6,672,360.

15. In re claims 9 and 17, the door of Bernard/Admitted Prior Art has been discussed above but fails to disclose:

- The ends of the stiffening bars are fitted with guide components and guide endpieces which have a flat part oriented in the plane.
- The spacer carries a roller engageable between two tracks formed in the vertical jambs.
- Filler endpieces are engaged on the end of each of the bars

16. With reference to Figure 12, Kraeutler '360 discloses:

- The ends of the stiffening bars (30) are fitted with guide components and guide endpieces (46) which have a flat part oriented in the plane of the screen.
- A roller (58) engageable between two tracks (4).
- Filler endpieces (54) engaged on the end of the bar (30).

17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include guide components and guide endpieces with a roller between the tracks as taught by Burrows '141 in order to guide bar and edge of the curtain accurately (column 5, lines 52-63)

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18. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944 and Applicant Admitted Prior Art and Kraeutler 6,672,360 as applied to claim 1 and further in view of Kraeutler 5,141,043.

19. In re claim 10, the door of Bernard/Admitted Prior Art has been discussed above but fails to disclose:

- Wherein the stiffening bars have the flexibility to absorb impact and come away from the tracks without suffering deformation.

20. Kraeutler '043 discloses:

- Wherein the stiffening bars have the flexibility to absorb impact and come away from the tracks without suffering deformation. (column 1, lines 62-68 and column 2, lines 1-6)

21. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the stiffening bars to have the flexibility to absorb impact and come away from the tracks as taught by Kraeutler '043 prevent the possibility of impeding subsequent operation of the curtain. (column 2, lines 4-6)

22. In re claim 11, Bernard '944 discloses:

- Wherein when the curtain is in the raised positions the flexible bar projects beyond the folds formed by each folded screen.

23. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944 and Applicant Admitted Prior Art and Kraeutler 6,672,360 as applied to claim 1 and further in view of Coenraets 6,119,758.

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24. In re claim 13, the door of Bernard/Admitted Prior Art/Kraeutler has been discussed above but fails to disclose:

- At least one transverse panel made of transparent material at the same height in each screen.

25. With reference to Figure 1, Coenraets '758 discloses:

- At least one transverse panel (38) made of transparent material.

26. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include at least one transverse panel made of transparent material at the same height in each screen as taught by Coenraets '758 in order to serve as windows. (column 4, lines 27-31)

27. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard FR 276944, Applicant Admitted Prior Art and Kraeutler 6,672,360 as applied to claim 1 and further in view of Yana JP 2002142967.

28. In re claim 14, the door of Bernard/Admitted Prior Art/Kraeutler has been discussed above, but fails to disclose:

- Each screen is provided with at least one shape-memory folding means capable of forming an outward fold in the curtain.

29. Yana '967 discloses:

- At least one shape-memory folding means capable of forming an outward fold in the curtain.

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30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a shape-memory folding means as taught by Yana '967 in order to allow the curtain to be easily folded when necessary. (Derwent Abstract)

Response to Arguments

31. Applicant's arguments filed 11/17/2008 have been fully considered but they are not persuasive.

32. In response to the argument that AAPA does not teach the edges of the screen lying against the jamb, as stated above, AAPA discloses that it is known to make a curtain moveable between an open and closed position between jambs, closing the opening formed by the jambs. Therefore it would be obvious that the curtain must touch the jambs in order to fully close the opening. The claimed characteristic "to form an airtight seal" has is an intended use where it merely recites the purpose of a process or the intended use of a structure, and AAPA could, (possibly needing additional unclaimed structure, allowed with 'comprising') meet this function. Note the definition of 'jamb' absent any definition by applicant:

jamb¹

--noun

1. *Architecture, Building Trades.*

- a. either of the vertical sides of a doorway, arch, window, or other opening.
- b. either of two stones, timbers, etc., forming the sidepieces for the frame of an opening.

¹ jamb. Dictionary.com. *The American Heritage® Dictionary of the English Language, Fourth Edition*. Houghton Mifflin Company, 2004. <http://dictionary.reference.com/browse/jamb> (accessed: February 09, 2009).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY C. RAMSEY whose telephone number is (571)270-3133. The examiner can normally be reached on Monday-Friday 6:30 am-4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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